



Durham Board of Adjustment

M I N U T E S

March 23, 2010 ■ 8:30 a.m.

Committee Room, 2nd Floor, City Hall

Members Present: Lynn Andrews, Vice Chair
Henry Blinder, Alternate
Furney Brown
Deanna Crossman, Alternate - Seated
Daniel Edwards, Chair
Angie Elkins, Alternate
George Kolasa
David Neill
Rebecca Winders

Members Absent: Randal Rogers

Staff Present: Brenda J. Crews, Clerk
Emanuel McGirt, Senior Assistant City Attorney
Jim Morris, Planner
Michael Stock, Senior Planner
Scott Whiteman, Planning Supervisor

Guests Present: Ray Wrenn
Jamie Loyack
Tim Hoke
Reid Tyler

Mr. Edwards read the following:

This Board is a quasi-judicial Board of record and as such, all testimony will be recorded. The proceedings of this Board will be governed by the zoning laws, as recorded.

Are there any members of this Board that would have any conflicts of interest with regard to the cases that are before us today and are there any early dismissals being requested? No conflicts were noted. Chairman Edwards indicated he needed to leave to be at Court by 9:30 a.m.

As Chair of the Board of Adjustment, I'd like to explain the procedures used for Board hearings. The hearings are quasi-judicial. The process is similar to a court proceeding. First, the staff will present an overview of the case then the applicant presents its evidence. The opponents, if there are any, will then present their evidence. The applicant may then present its rebuttal. Board members are asked to refrain from questions until each speaker has completed his or her presentation. All testimony is given under oath. In a few moments, I will give the oath to all witnesses as a group. All witnesses are asked to sign the roster at the podium if you have not done so.

Testimony should consist of facts each witness knows directly, not hearsay. All witnesses should come to the podium and speak directly into the microphone so their testimony can be recorded on tape.

Written evidence must be presented to the Chair and a determination will be made about whether it should be accepted. Written evidence can be inspected by the other side. All evidence, written or oral, can be objected to.

Witnesses are subject to cross-examination. Opposing representatives will have a chance to question witnesses after all witnesses for the other side have testified. If you wish to cross-examine, you must raise your hand when I ask for other speakers in favor or against the application and I will recognize you. I would like to note that Board members may have visited each site under consideration as a part of their preparation for this meeting.

The Board will vote on each case after the presentation of all evidence, pro and con, concerning the case. The law requires that in order for an applicant's request to be granted 5 of the 7 voting Board members must approve the request.

All decisions of this Board are subject to appeal to the Durham County Superior Court. Any one in the audience, other than the applicant, who wish to receive a copy of the formal order issued by this Board on a particular case, must submit a written request for a copy of the order at this hearing. Forms for this purpose are available from the Planning staff.

Hearing and Determination of Cases

After the oath was given, Mr. Stock asked that all staff reports and materials submitted at the meeting be made part of the permanent record with any additions, deletions, and or corrections that may be necessary. All Board members concurred.

SEATED: Ms. Andrews, Mr. Brown, Ms. Crossman, Mr. Edwards, Mr. Kolasa, Mr. Neill, Ms. Winders

Case B0900043 - Duke Diet and Fitness Fence Height – City - A minor special use permit for fence height over 4 feet within the street yard as per Sections 3.9, 9.9 and 12.3.1D of the Unified Development Ordinance. The property is located at 501 Douglas Street and zoned CG. PIN 0812-15-72-3929

Staff Presentation was made by: Michael Stock

Persons Appearing in Support: Ray Wrenn, Project Manager; Tim Hoke, Architect

Persons Appearing in Opposition: None

Staff

Recommendation: Approval

Motion: Mr. Neill made a motion to grant the request as submitted based on findings of fact by the Board that the governing Ordinance requirements have been met.

Conditions:

1. The maximum height of the fence shall be six (6) feet.
2. The location and design shall be substantially consistent with that proposed to the Board as part of the application.

Seconded By: Mr. Brown

Vote: 7 to 0

Action: Approval

SEATED: Ms. Andrews, Mr. Brown, Ms. Crossman, Mr. Edwards, Mr. Kolasa, Mr. Neill, Ms. Winders

Case B1000003 - Keystone East Office Building Height – City - A minor special use permit for additional height for an office building. IL permits 50 feet; 70 feet is requested as per Sections 3.9 and 6.10B of the Unified Development Ordinance. The property is located at 4700 Hopson Road and zoned IL(D).

Staff Presentation was made by: Michael Stock

Persons Appearing in Support: Jamie Loyack, Reid Tyler

Persons Appearing in Opposition: None

Exhibits A, B, C, and D were submitted by Mr. Loyack.

Staff

Recommendation: Approval

Motion: Mr. Kolasa made a motion to grant the request as submitted based on findings of fact by the Board that the governing Ordinance requirements have been met.

Conditions:

1. The maximum height shall be 70 feet.
2. The development shall be substantially consistent with the plans and architectural designs provided to the Board as part of the application.

Seconded By: Ms. Andrews

Vote: 7 to 0

Action: Approval

Approval of Summary Minutes for January 26, 2010

Mr. Kolasa made a motion, seconded by Mr. Neill, to approve the summary minutes as submitted by staff. The motion passed unanimously.

Approval of Summary Minutes for February 23, 2010

Mr. Brown made a motion, seconded by Mr. Kolasa, to approve the summary minutes as submitted by staff. The motion passed unanimously.

Approval of Orders

- **Case Number B0900043:** Mr. Neill made a motion, seconded by Ms. Andrews, that the order be approved as submitted. The motion passed unanimously.
- **Case Number B1000003:** Mr. Neill made a motion, seconded by Ms. Andrews, that the order be approved as submitted. The motion passed unanimously.
- **Case Number B0900039:** Mr. Neill made a motion, seconded by Ms. Andrews, that this order be referred back to staff and to the City Attorney's office for clarification of conditions #2 and 3, and wording of the "findings of fact". The motion passed unanimously.

Old Business

N/A.

New Business

N/A.

Adjournment

The meeting adjourned at approximately 9:38 a.m.

Respectfully Submitted,



Brenda J. Crews, Clerk
Durham Board of Adjustment